

**APPENDIX E**  
**PLANNING FOR COMPLIANCE**



## APPENDIX E PLANNING FOR COMPLIANCE

As a recipient of Federal and State funds, the City of Pocatello, Pocatello Regional Airport's sponsor, must comply with various obligations through grant assurances, agreements, and/or property conveyances. The FAA recommends that airport compliance be addressed during the airport planning process and encourages the implementation of various programs that promote sound operating practices and ongoing compliance with regulatory requirements. It is more efficient and productive if the FAA, the State of Idaho, and the City of Pocatello work together to ensure sound operating practices and a proactive, even pre-emptive, approach in achieving compliance.

The Pocatello Regional Airport's various agreements and associated requirements are outlined in FAA Order 5190.6B; *Airport Compliance Manual*. The purpose of identifying specific actions and requirements the sponsor must follow as a condition of funding is to protect the on-going Federal investment at an airport. The FAA and Airport Management make continual efforts to educate sponsor representatives about their obligations, in particular the grant assurances agreed to upon receipt of Airport Improvement Program (AIP) grant funds. This educational effort is continuous and can be challenging because of ever changing local councils, commissions, and boards, as well as public familiarity; which often results in a lack of knowledge and/or understanding of the assurances and potential compliance issues by local decision-makers.

This appendix provides an overview of the FAA and State of Idaho grant assurances. In addition, this section will recommend strategies and tools for the City of Pocatello's consideration to assist in maintaining and operating the Airport and ensuring compliance with sponsor obligations.

### **E.1 Overview of Federal and State Grant Assurances**

As a recipient of both Federal and State AIP funds, the City of Pocatello is contractually bound to various sponsor obligations typically referred to as FAA "Grant Assurances." These obligations document the commitments made by the airport sponsor to fulfill the intent of the grantor (FAA and/or the State of Idaho) required in association with acceptance of necessary Federal and/or State funding for airport improvements. Failure to comply with the grant assurances may result in a finding of noncompliance and/or forfeiture of future funding. Grant assurances and their associated requirements are in place to protect the significant investment made by the FAA, State of Idaho, and the City of Pocatello, to preserve and maintain the nation's airports as a valuable national transportation asset.

### **E.2 FAA Grant Assurances**

Interpretation, administration, and oversight of Federal sponsor obligations contained in grant assurances is generally carried out by the FAA via its Airport Compliance Program. Currently, FAA Order 5190.6B; *Airport Compliance Manual*, sets forth policies and procedures for the Airport Compliance Program. It is not regulatory and is not controlling with regard to airport sponsor conduct; rather, it establishes the policies and procedures for FAA personnel to follow in carrying out the FAA's responsibilities for ensuring compliance by the sponsor.

Order 5190.6B states: the FAA Airport Compliance Program is, "...designed to monitor and enforce obligations agreed to by airport sponsors in exchange for valuable benefits and rights granted by the United States in return for substantial direct grants of funds and for conveyances of federal property for airport purposes. The Airport Compliance Program is designed to protect the public interest in civil aviation. Grants and property conveyances are made in exchange for binding commitments (federal obligations) designed to ensure that the public interest in civil aviation will be served. The FAA bears the important responsibility of seeing that these commitments are met. This Order addresses the types of these commitments, how they apply to airports, and what FAA personnel are required to do to enforce them."

To better understand the intent and need for the FAA Compliance Program, it is important to understand the FAA's goals for a national airport system. The national airport system is known as the FAA National Plan of Integrated Airport Systems (NPIAS). The guiding principles of the NPIAS have been in place since 1946 and, for the most part, have remained unchanged since. According to the FAA, cooperation between the FAA, State, and local agencies should result in an airport system with the following attributes:

- Airports should be safe and efficient, located at optimum sites, and be developed and maintained to appropriate standards.
- Airports should be operated efficiently both for aeronautical users and the government, relying primarily on user fees and placing minimal burden on the general revenues of the local, state, and Federal governments.
- Airports should be flexible and expandable, able to meet increased demand and accommodate new aircraft types.
- Airports should be permanent, with assurance that they will remain open for aeronautical use over the long term.
- Airports should be compatible with surrounding communities, maintaining a balance between the needs of aviation and the requirements of residents in neighboring areas.
- Airports should be developed in concert with improvements to the air traffic control system.
- The airport system should support national objectives for defense, emergency readiness, and postal delivery.
- The airport system should be extensive, providing as many people as possible with convenient access to air transportation, typically not more than 20 miles of travel to the nearest NPIAS airport.
- The airport system should help air transportation contribute to a productive national economy and international competitiveness.

Currently there are 39 FAA grant assurances included in Order 5190.6B. For example, these assurances are also included as part of the grant application submitted to the FAA for funds for this Master Plan Update. A copy of the most current grant assurances at the time of this Master Plan can be found in Exhibit 1.

As the Airport sponsor, the City of Pocatello is responsible for the direct control and operation of Pocatello Regional Airport. Familiarity and proper implementation of sponsor obligations, FAA grant assurances in particular, are the keys to successful compliance. Review of Order 5190.6B and communication with the FAA Northwest Mountain Region Compliance Office are both excellent resources for the City in helping to understand policy and achieve compliance with that policy.

The assurances are classified by type in Table E-1 below. While sponsors should understand and comply with all grant assurances, there are several assurances that are common “stumbling blocks,” or recurring issues, for airport sponsors throughout the country. These are highlighted in the table and discussed in more detail below.

**Table E-1**  
**THE FAA’S AIRPORT SPONSOR GRANT ASSURANCES**

<b>Project Planning/Design and Contracting</b>	<b>General Airport</b>	<b>Land Use</b>	<b>Day-to-Day Airport Management</b>
2- Sponsor Responsibility	1-Federal Requirements	6- Consistent with Local Plans	22- Economic Nondiscrimination
3- Sponsor Fund Availability	4- Good Title	20-Hazard Removal & Mitigation	23- Exclusive Rights Prohibition
7- Local Interest Consideration	5-Preserving Rights	21- Compatible Land Use	26- Reporting Requirements
8- User Consultation	29- Up to Date Airport Layout Plan		38- Hangar Construction
9- Public Hearings	31- Disposal of Land		
10-Air and Water Quality Standards			
13- Project Accounting/Reporting			
14- Minimum Wage Rates			
15- Veteran Preference			
16- Plan Conformity			
18- Planning Projects			
30- Civil Rights			
33- Foreign Market Restrictions			
34- Following FAA Policy			
35- Property Acquisition and Relocation			
37- DBE Program			
	<b>Airport Operations</b>	<b>Leases &amp; Financial</b>	<b>Other</b>
	11- Pavement Maintenance	24- Fee and Rental Structure	27-Use by Government Aircraft
	19-Operation and Maintenance	25- Airport Revenue	28-Land for Federal Facilities
			36- Access by Intercity Buses
	<b>Project Construction</b>	<b>Commercial Service</b>	
	17-Construction Approval	12-Air Carrier Terminal Development	
	32-Contracting Engineering Services	39- Air Carrier Access	

Note: Highlighted assurances represent common airport stumbling blocks.  
 Source: FAA Order 5190-6B

The terms, conditions, and assurance of a grant agreement with the FAA remain in effect for the useful life of a development project, which is typically 20 years from the receipt of the last grant. However, terms, conditions, and assurances associated with land purchased with Federal funds do not expire. The paragraphs below highlight the potential issues with key grant assurances.

## **E.2.1 Project Planning/Design and Contracting**

### *E.2.1.1 Sponsor Fund Availability (Assurance #3)*

Once a grant is given to an airport sponsor, the receiving sponsor commits to providing the funding to cover their portion of the total project cost. For the Airport, this amount is five percent of the total eligible project cost; however, it may be higher or lower depending on the particular project components or makeup. Once the project has been completed, the receiving airport also commits to having adequate funds to maintain and operate the airport in the appropriate manner to protect the investment in accordance with the terms of the assurances attached to and made a part of the grant agreement.

### *E.2.1.2 Consistency with Local Plans (Assurance #6)*

All projects must be consistent with city and county comprehensive plans, transportation plans, zoning ordinances, development codes, and hazard mitigation plans. The airport sponsor and airport planners should be familiar with local planning regulations before a project is considered and ensure that all projects follow local plans and ordinances.

In addition to understanding local plans, airport sponsors should be proactive in order to prevent noncompliance with this assurance. Airport sponsors should assist in the development of local plans that incorporate the airport and consider its unique aviation-related needs. Sponsor efforts should include the development of goals, policies, and implementation strategies to protect the airport as part of local plans and ordinances.

### *E.2.1.3 Accounting System, Audit, and Record Keeping (Assurance #13)*

All project accounts and records must be made available to the FAA at any reasonable time. Records should include documentation of cost, how monies were actually spent, funds paid by other sources, and any other financial record associated with the project at hand. Any books, records, documents, or papers that pertain to the project should be available for audit or examination.

## **E.2.2 General Airport**

### *E.2.2.1 Good Title (Assurance #4)*

The airport owner must have a "Good Title" to affected property when considering projects associated with land, building, or equipment. Good or clear title; meaning the sponsor can show complete fee simple ownership of the property without any legal questions or show good title will be obtained.

### *E.2.2.2 Preserving Rights and Powers (Assurance #5)*

No actions are allowed which might take away any rights or powers from the sponsor. This includes acts necessary for the sponsor to perform or fulfill any condition set forth by the assurance

included as part of the grant agreement. If there is an action taken or activity permitted that might hinder any of those rights or powers, it should be discontinued. An example of an action which may adversely affect the rights and powers of the Airport is a Through-the-Fence (TTF) activity. TTF activities allow access to airport facilities from off-airport users. In some instances, the airport sponsor cannot control the activities of those operating off the airport resulting in less sponsor control. This loss of control can potentially have an adverse impact to airport users. For example, many times TTF users do not pay the same rates and charges as on-airport users resulting in an unfair competitive advantage for business/users located off-airport versus those on-airport. As of March 2011, the FAA now prohibits new residential TTF agreements and activities on obligated airports. Assurance #5 has been revised to reflect this change.

#### E.2.2.3 Airport Layout Plan (ALP) (Assurance #29)

The airport must keep an up-to-date ALP. An ALP should include current and future airport boundaries, facilities/structures, the location of any non-aviation areas, and all improvements. No change should be made at the airport to hinder the safety of operations. Also, no change should be made to the airport that is not in conformity with the ALP. Any change of this nature could adversely affect the safety, utility, or efficiency of the airport. If any changes are made to the airport without authorization, the alteration must be changed back to its original condition or the airport will have to bear all cost associated with moving or changing the alteration to an acceptable design or location. Additionally, no Federal participation will occur for planned improvement projects not shown on an approved ALP.

#### E.2.2.4 Disposal of Land (Assurance #31)

Land purchased with the financial participation of an FAA grant cannot be sold or disposed of by the airport sponsor at their sole discretion. Disposal of such lands are subject to FAA approval and a definitive process established by the FAA. If airport land is no longer considered necessary for airport purposes and the sale is authorized by the FAA, the land must be sold at fair market value. Proceeds from the sale of the land must either be repaid to the FAA or reinvested into another eligible airport improvement or noise compatibility project. Land disposal most typically arises when a community is building a new airport and the land on which the airport was located is sold with the proceeds used to offset costs of the new airport. In general, land purchased with FAA funds is rarely sold by a sponsor.

### **E.2.3 Airport Operations**

#### E.2.3.1 Pavement Preventative Maintenance (Assurance #11)

Since January 1995, the FAA has mandated that it will only give a grant for airport pavement replacement or reconstruction projects if an effective airport pavement maintenance-management program is in place. The program should identify the maintenance of all pavements funded with Federal financial assistance. Further, the Idaho Transportation Department (ITD) Aeronautics Division has had an active statewide pavement maintenance program since the 1980s. ITD provides airports with a report of their pavement conditions every three years to assist airports in making decisions regarding pavement maintenance and ensure compliance with the Federal mandate. The report provides a Pavement Condition Index (PCI) rating (0 to 100) for each section

of aprons, runways, and taxiways; and a score for the overall airport. In the Idaho Airport System Plan (IASP), Idaho recommends that runways in the State be maintained at a PCI of 81 or greater.

#### E.2.3.2 Operations and Maintenance (Assurance #19)

All Federally funded airport facilities must operate at all times in a safe and serviceable manner. The airport sponsor should not allow for any activities which inhibit or prevent this. The airport sponsor must always promptly mark and light any hazards on the airport and promptly issue Notices to Airmen (NOTAMs) to advise of any conditions which could affect safe aeronautical use. Exceptions to this assurance include when temporary weather conditions make it unreasonable to maintain the airport.

### **E.2.4 Land Use**

#### E.2.4.1 Local Plans (Assurance #6)

Development around an airport should conform with local plans for development and use. Airport sponsors should conform with this grant assurance by developing local plans that incorporate the airport and consider its unique aviation related needs as part of their planning process. Sponsor efforts should include detailed goals, policies and implementation strategies to protect an airport as part of the local comprehensive and transportation plans as a key strategy in meeting the requirements of this grant assurance.

#### E.2.4.2 Airspace (Assurance #20)

Code of Federal Regulations (CFR), 49 CFR Part 77, Objects Affecting Navigable Airspace (Part 77), provides the basis for airspace protection requirements at public-use airports at the Federal level by identifying and defining critical airspace surfaces. Airspace requirements are determined by the weight and speed of the aircraft that predominantly operate at an airport, as well as the type of instrument approach, if any, that exists or is planned.

FAA Grant Assurance #20 states, "Hazard Removal and Mitigation - Airport sponsors will take appropriate action to assure that such terminal airspace as is required to protect instrument and visual operations to the airport will be adequately cleared and protected..." Local governments protect the Part 77 airspace surfaces by defining them in the ALP and further identifying them in ordinance or code, and requiring that no object penetrates these airspace surfaces as a result of development.

Local governments also protect airspace by encouraging those land uses that are compatible with airport operations and prohibiting those uses that are likely to be incompatible with airport operations. The airspace map included in an ALP reflects the minimum applicable airspace dimensions at an airport that should be protected. Per Part 77, proponents proposing development at a certain height above the ground or within a certain proximity to an airport are required to submit FAA Form 7460-1 to the FAA for determination that such development will not adversely impact airspace or the safety of aircraft operators including temporary conditions.

#### E.2.4.3 Compatible Land Use (Assurance #21)

Land uses around an airport should be planned and implemented in a manner which ensures surrounding development and activities are compatible with the airport. The FAA does not have statutory authority to mandate to airport sponsors the specific land use methods they must use to meet this grant assurance. Rather, the action(s) taken by the sponsor must be considered reasonable to the FAA. To ensure compatibility, the sponsor is expected to take appropriate action including the adoption of zoning laws to guide land use in the vicinity of airports under their jurisdiction. Incompatible land use around airports represents one of the greatest threats to the future viability of airports. There are many resources available to airport sponsors to provide guidance in implementing compatible land use planning around airports. A primary resource is the ITD Division of Aeronautics' Idaho Airport Land Use Guidelines.

### **E.2.5 Day-to-Day Airport Management**

#### E.2.5.1 Economic Non-Discrimination (Assurance #22)

Any reasonable aeronautical activity offering service to the public should be permitted to operate at the airport as long as the activity complies with an airport's established standards for that activity. Any contract or agreement made with an airport will have provisions making certain the person, firm, or corporation will not be discriminatory when it comes to services rendered, as well as rates or prices charged to customers. Provisions include:

- All Fixed Base Operators (FBOs) on the airport should be subject to the same rate fees, rentals, and other charges.
- All persons, firms, or corporations operating aircraft can work on their own aircraft with their own employees.
- If the airport sponsor at any time exercises the rights and privileges of this assurance they will be under all of the same conditions as any other airport user would be.
- The sponsor can establish fair conditions which need to be met by all airport users to make the airport safer and more efficient.

The sponsor can prohibit any type, kind, or class of aeronautical activity if it is for the safety of the airport. An example of an activity, which may be considered for prohibition, is sky diving. It is important to point out that the FAA will review such prohibitions and will make the final determination as to whether or not a particular activity type is deemed unsafe or incompatible at an airport based on current operational dynamics.

#### E.2.5.2 Exclusive Rights (Assurance #23)

Exclusive Rights at an airport is often a complicated subject usually specific to individual situations. The assurance states the sponsor "will permit no exclusive right for the use of the airport by any person providing, or intending to provide, aeronautical services to the public..." There are exceptions to this rule; however, if an airport sponsor can prove that permitting a similar business would be unreasonably costly, impractical, or result in a safety concern, the sponsor may consider granting an exclusive right. To deny a business opportunity because of safety, the sponsor must demonstrate how that particular business will compromise safety at the airport. Exclusive rights are very often found in airport relationships with FBOs, but exclusive rights can also be established

with any other business at the airport, which could assist in the operation of an aircraft at the airport. If an unapproved exclusive rights agreement exists, it must be dissolved before a future Federal grant is awarded to the airport.

If a sponsor is contemplating denial of a business use at the airport, it is strongly encouraged that they contact their FAA Airport District Office (ADO) in order to ensure that they have all necessary information and that denial of access is not going to be seen as unjust discrimination. For more in depth information on exclusive rights reference FAA Advisory Circular 150/5190-6; *Exclusive Rights at Federally Obligated Airports*.

## **E.2.6 Leases and Financial**

### *E.2.6.1 Fee and Rental Structure (Assurance #24)*

Simply put, the fee and rental structure at an airport must be implemented with the goal of generating enough revenue to become self-sufficient in funding day-to-day operational needs. The airport sponsor should routinely monitor its fee and rental structure to ensure reasonable fees are being charged to meet this goal. Common fees charged by airports include fuel flowage, tie-down, landing fees, as well as rent for land or facilities.

### *E.2.6.2 Airport Revenue (Assurance #25)*

All airport revenue and local taxes on aviation fuel should be used toward the operating costs of the airport, the local airport system, or other local aviation-related facilities which are owned by the same owner of the airport. This includes fees which would directly impact air transportation passengers, as well as property acquired for noise mitigation or other off-airport property. In other words, revenue generated by airport activities must be used to support the continued operation and maintenance of an airport. Use of airport revenue to support or subsidize other non-aviation activities or functions of the sponsor is not allowed and is considered revenue diversion. Revenue diversion is a significant compliance issue subject to cause scrutiny by the FAA.

### **E.3 Other FAA Compliance Requirements**

In addition to the specific requirements of the FAA Grant Assurances, there are other Federal contracting requirements as discussed in this section.

#### **E.3.1 Other Federal Contracting and Procurement Documents**

In addition to the grant assurances stated above, whenever an airport sponsor accepts an AIP grant from the FAA, the sponsors agrees to adhere to various Federal contracting and procurement requirements. FAA Advisory Circulars are required for use in AIP funded projects. Included in each grant request is a Federal funding checklist that identifies the requirements an airport should consider before accepting the grant. The following items are noted in the checklist:

- The ALP should be up to date.
- Exhibit A Property Map may need to be updated, if acquiring additional property.
- Land inventory may need to be updated, if an airport has recently acquired land with Federal assistance.
- Airports must hold good title to the airport landing area.
- Appropriate signage and markings must be in place.
- Runway Protection Zones (RPZ) and approach surface deficiencies must be identified and steps to address deficiencies must be noted.
- Runway Safety Areas (RSA) must meet FAA standards, if planning a runway project.
- Disadvantaged Business Enterprise (DBE) program goals must be met on projects more than \$250,000.
- Procedures should be in place to handle bid protests.
- Open AIP grant projects need to be identified.
- Project closeout form must be submitted within 90 days of work completion.
- A “Certification of Economic Justification” must be included for routine pavement maintenance projects.
- A “Revenue Generating Facility Eligibility Evaluation” must be completed for hangar construction or fueling facilities.
- A “Reimbursable Agreement” and “Non-Federal Coordination” must be completed for navigational aid projects.
- A “Relocation Plan” must be completed if a project requires residences or businesses to be relocated.

#### **E.3.2 Special Conditions**

In addition, the State or the FAA may require “Special Conditions” to individual grants which supplement or expand the standard grant assurances. Special Conditions are unique to an individual airport and can be project or administrative in nature. Airport sponsors need to be aware of such conditions that may be applied to their airport.

#### **E.3.3 Multi-jurisdictional Challenges**

In some instances, airports are jointly owned and operated by more than one airport sponsor. In other instances, airports may be located within multiple jurisdictions. While the official airport sponsor is ultimately responsible for adherence with the grant assurances, the actions, or inactions, of surrounding jurisdictions can and will impact the airport sponsor’s ability in meeting its

sponsor obligations. This is particularly true with land use compatibility issues around airports. As a result, it is important in either circumstance that all jurisdictions affected by the airport understand the operational needs and complexities of having an airport within its jurisdiction. Mutual agreements addressing airport operational or land use protection needs, or other cooperative measures, are recommended by all jurisdictions to both protect the functionality of the airport as well as the safety and well-being of airport user and neighbors.

## E.4 State Assurances

Like the FAA, the ITD Division of Aeronautics has sponsor obligations associated with receipt of Idaho Airport Aid Program (IAAP) funds. Currently, there are 18 state grant assurances. In addition to the grant assurances, the State also has requirements in State statute and administrative code imposed by receipt of IAAP funding. Unlike the FAA, the Division of Aeronautics does not actively maintain an official Compliance Program. Currently, oversight and enforcement of the State’s airport grant assurances and other requirements is carried out by the Administrator of the Idaho Division of Aeronautics and Aeronautics.

Below is a list of state grant assurances and requirements to be aware of as a result of receiving IAAP funds. State requirements are clearly similar in intent to the requirements of the FAA grant assurances.

- SPONSOR agrees to hold said airport open to the flying public for the useful life of the facilities developed under this project.
- SPONSOR acceptance of this offer shall remain in full force and effect for a period not to exceed twenty (20) years from the date of acceptance.
- SPONSOR should have proof of ownership or lease of all land upon which any project is proposed in order to protect the investment of public funds.
- SPONSOR cannot allow any activity or action on the airport that would interfere with its use for airport purposes.
- SPONSOR shall grant no exclusive use or operating agreements, to any person, company, or corporation; that failure to abide by such agreement shall automatically obligate the immediate and full return of all State of Idaho money expended in behalf of the project to the State of Idaho.

The state grant assurances and requirements are summarized in Table E-2 and described in detail in Exhibit 2.

**Table E-2**  
**ITD IDAHO AIRPORT AID PROGRAM GRANT ASSURANCES**

Project Related	General Airport Operations
<ul style="list-style-type: none"> <li>• Timely Completion</li> <li>• Completion According to Plans</li> <li>• Follow Construction Bidding Procedures</li> <li>• Property Appraisals for Acquisitions</li> <li>• Proof of Funding</li> <li>• Costs Eligibility</li> <li>• Commencement Date Report</li> <li>• Progress Reports</li> <li>• Approval for Changes</li> <li>• Completion Report/Inspection Request</li> <li>• Allocation Agreement</li> </ul>	<ul style="list-style-type: none"> <li>• Develop Airport According to IDT Standards</li> <li>• Remain Open</li> <li>• No Exclusive Use</li> <li>• No Activities that Interfere with Operations</li> <li>• Allow All Safe Aeronautical Activities</li> <li>• Allow People to Service Own Aircraft</li> <li>• Airport Generated Revenue Should be Used for Airport Purposes</li> </ul>

Source: ITD Division of Aeronautics

## **E.5 Grant Assurances Summary**

The above information only provides a brief summary of the grant assurances and other compliance requirements. The City of Pocatello is encouraged to become familiar with their specific sponsor obligations using the available resources as provided by the FAA and ITD. Compliance with grant assurances, or lack thereof, is frequently a legal consideration, the resolution of which requires expert legal advice preferably from legal counsel familiar with FAA policy and compliance.

Although the State does not actively enforce its assurances, the FAA does periodic compliance reviews and safety inspections at airports. The FAA's most recent inspection for Pocatello Regional Airport was completed in August 2011. The FAA grades airports on the following categories: maintenance of facilities, protection of approaches, control and operation, use of surplus property, use of revenues, exclusive/civil rights, conformity to ALP, and continuing special conditions (if relevant). Pocatello Regional Airport was in compliance in each of these categories.

In its "Planning for Compliance" guidance, the FAA points out several specific potential compliance issues that relate back to grant assurances that should be pointed out in an airport planning document. One of the major issues at airports is land use compatibility and the absence of zoning controls, including airspace zoning. *Appendix F, Land Use Planning* of this Master Plan has been dedicated to compatible land use and land use compliance related to Pocatello Regional Airport.

Other areas of special concern noted by the FAA include:

- Existing "through-the-fence" access for aircraft based off airport property
- Revenue diversion (including improper use of airport property)
- On-airport residential use
- Non-aeronautical local events closing the airport or a runway.
- Unabated wildlife attractants
- Tree or structure obstructing airspace

Pocatello Regional Airport is currently in compliance with each of these items and ongoing compliance should be maintained.

It is important that the City of Pocatello familiarize the existing City and County officials with all FAA and State grant assurances. In addition, a recurring educational program to educate officials about sponsor obligations on an ongoing basis is critical to ensure informed decisions while maintaining compliance with grant assurances.

**Exhibit 1**  
**CURRENT FEDERAL GRANT ASSURANCES**

THIS PAGE INTENTIONALLY LEFT BLANK

**ASSURANCES**  
**Airport Sponsors**

---

**A. General.**

1. These assurances shall be complied with in the performance of grant agreements for airport development, airport planning, and noise compatibility program grants for airport sponsors.
2. These assurances are required to be submitted as part of the project application by sponsors requesting funds under the provisions of Title 49, U.S.C., subtitle VII, as amended. As used herein, the term "public agency sponsor" means a public agency with control of a public-use airport; the term "private sponsor" means a private owner of a public-use airport; and the term "sponsor" includes both public agency sponsors and private sponsors.
3. Upon acceptance of this grant offer by the sponsor, these assurances are incorporated in and become part of this grant agreement.

**B. Duration and Applicability.**

1. **Airport Development or Noise Compatibility Program Projects Undertaken by a Public Agency Sponsor.** The terms, conditions and assurances of the grant agreement shall remain in full force and effect throughout the useful life of the facilities developed or equipment acquired for an airport development or noise compatibility program project, or throughout the useful life of the project items installed within a facility under a noise compatibility program project, but in any event not to exceed twenty (20) years from the date of acceptance of a grant offer of Federal funds for the project. However, there shall be no limit on the duration of the assurances regarding Exclusive Rights and Airport Revenue so long as the airport is used as an airport. There shall be no limit on the duration of the terms, conditions, and assurances with respect to real property acquired with Federal funds. Furthermore, the duration of the Civil Rights assurance shall be specified in the assurances.
2. **Airport Development or Noise Compatibility Projects Undertaken by a Private Sponsor.** The preceding paragraph 1 also applies to a private sponsor except that the useful life of project items installed within a facility or the useful life of the facilities developed or equipment acquired under an airport development or noise compatibility program project shall be no less than ten (10) years from the date of acceptance of Federal aid for the project.
3. **Airport Planning Undertaken by a Sponsor.** Unless otherwise specified in the grant agreement, only Assurances 1, 2, 3, 5, 6, 13, 18, 30, 32, 33, and 34 in section C apply to planning projects. The terms, conditions, and assurances of the grant agreement shall remain in full force and effect during the life of the project.

**C. Sponsor Certification.** The sponsor hereby assures and certifies, with respect to this grant that:

- 1. General Federal Requirements.** It will comply with all applicable Federal laws, regulations, executive orders, policies, guidelines, and requirements as they relate to the application, acceptance and use of Federal funds for this project including but not limited to the following:

**Federal Legislation**

- a. Title 49, U.S.C., subtitle VII, as amended.
- b. Davis-Bacon Act - 40 U.S.C. 276(a), et seq.<sup>1</sup>
- c. Federal Fair Labor Standards Act - 29 U.S.C. 201, et seq.
- d. Hatch Act - 5 U.S.C. 1501, et seq.<sup>2</sup>
- e. Uniform Relocation Assistance and Real Property Acquisition Policies Act of 1970 - Title 42 U.S.C. 4601, et seq.<sup>1 2</sup>
- f. National Historic Preservation Act of 1966 - Section 106 - 16 U.S.C. 470(f).<sup>1</sup>
- g. Archeological and Historic Preservation Act of 1974 - 16 U.S.C. 469 through 469c.<sup>1</sup>
- h. Native Americans Grave Repatriation Act - 25 U.S.C. Section 3001, et seq.
- i. Clean Air Act, P.L. 90-148, as amended.
- j. Coastal Zone Management Act, P.L. 93-205, as amended.
- k. Flood Disaster Protection Act of 1973 - Section 102(a) - 42 U.S.C. 4012a.<sup>1</sup>
- l. Title 49, U.S.C., Section 303, (formerly known as Section 4(f))
- m. Rehabilitation Act of 1973 - 29 U.S.C. 794.
- n. Civil Rights Act of 1964 - Title VI - 42 U.S.C. 2000d through d-4.
- o. Age Discrimination Act of 1975 - 42 U.S.C. 6101, et seq.
- p. American Indian Religious Freedom Act, P.L. 95-341, as amended.
- q. Architectural Barriers Act of 1968 - 42 U.S.C. 4151, et seq.<sup>1</sup>
- r. Power Plant and Industrial Fuel Use Act of 1978 - Section 403- 2 U.S.C. 8373.<sup>1</sup>
- s. Contract Work Hours and Safety Standards Act - 40 U.S.C. 327, et seq.<sup>1</sup>
- t. Copeland Anti Kickback Act - 18 U.S.C. 874.1
- u. National Environmental Policy Act of 1969 - 42 U.S.C. 4321, et seq.<sup>1</sup>
- v. Wild and Scenic Rivers Act, P.L. 90-542, as amended.
- w. Single Audit Act of 1984 - 31 U.S.C. 7501, et seq.<sup>2</sup>
- x. Drug-Free Workplace Act of 1988 - 41 U.S.C. 702 through 706.

**Executive Orders**

- Executive Order 11246 - Equal Employment Opportunity<sup>1</sup>
- Executive Order 11990 - Protection of Wetlands
- Executive Order 11988 – Flood Plain Management
- Executive Order 12372 - Intergovernmental Review of Federal Programs
- Executive Order 12699 - Seismic Safety of Federal and Federally Assisted New Building Construction<sup>1</sup>
- Executive Order 12898 - Environmental Justice

## **Federal Regulations**

- a. 14 CFR Part 13 - Investigative and Enforcement Procedures.
- b. 14 CFR Part 16 - Rules of Practice For Federally Assisted Airport Enforcement Proceedings.
- c. 14 CFR Part 150 - Airport noise compatibility planning.
- d. 29 CFR Part 1 - Procedures for predetermination of wage rates.<sup>1</sup>
- e. 29 CFR Part 3 - Contractors and subcontractors on public building or public work financed in whole or part by loans or grants from the United States.<sup>1</sup>
- f. 29 CFR Part 5 - Labor standards provisions applicable to contracts covering federally financed and assisted construction (also labor standards provisions applicable to non-construction contracts subject to the Contract Work Hours and Safety Standards Act).<sup>1</sup>
- g. 41 CFR Part 60 - Office of Federal Contract Compliance Programs, Equal Employment Opportunity, Department of Labor (Federal and federally assisted contracting requirements).<sup>1</sup>
- h. 49 CFR Part 18 - Uniform administrative requirements for grants and cooperative agreements to state and local governments.<sup>3</sup>
- i. 49 CFR Part 20 - New restrictions on lobbying.
- j. 49 CFR Part 21 - Nondiscrimination in federally-assisted programs of the Department of Transportation - effectuation of Title VI of the Civil Rights Act of 1964.
- k. 49 CFR Part 23 - Participation by Disadvantaged Business Enterprise in Airport Concessions.
- l. 49 CFR Part 24 - Uniform relocation assistance and real property acquisition for Federal and federally assisted programs.<sup>1 2</sup>
- m. 49 CFR Part 26 – Participation by Disadvantaged Business Enterprises in Department of Transportation Programs.
- n. 49 CFR Part 27 - Nondiscrimination on the basis of handicap in programs and activities receiving or benefiting from Federal financial assistance.<sup>1</sup>
- o. 49 CFR Part 29 – Government wide debarment and suspension (nonprocurement) and government wide requirements for drug-free workplace (grants).
- p. 49 CFR Part 30 - Denial of public works contracts to suppliers of goods and services of countries that deny procurement market access to U.S. contractors.
- q. 49 CFR Part 41 - Seismic safety of Federal and federally assisted or regulated new building construction.<sup>1</sup>

## **Office of Management and Budget (OMB) Circulars**

- a. A-87 - Cost Principles Applicable to Grants and Contracts with State and Local Governments.
- b. A-133 - Audits of States, Local Governments, and Non-Profit Organizations

<sup>1</sup> These laws do not apply to airport planning sponsors.

<sup>2</sup> These laws do not apply to private sponsors.

<sup>3</sup> 49 CFR Part 18 and OMB Circular A-87 contain requirements for State and Local Governments receiving Federal assistance. Any requirement levied upon State and Local Governments by this regulation and circular shall also be applicable to private sponsors receiving Federal assistance under Title 49, United States Code.

Specific assurances required to be included in grant agreements by any of the above laws, regulations or circulars are incorporated by reference in this grant agreement.

## 2. **Responsibility and Authority of the Sponsor.**

- a. **Public Agency Sponsor:** It has legal authority to apply for the grant, and to finance and carry out the proposed project; that a resolution, motion or similar action has been duly adopted or passed as an official act of the applicant's governing body authorizing the filing of the application, including all understandings and assurances contained therein, and directing and authorizing the person identified as the official representative of the applicant to act in connection with the application and to provide such additional information as may be required.
- b. **Private Sponsor:** It has legal authority to apply for the grant and to finance and carry out the proposed project and comply with all terms, conditions, and assurances of this grant agreement. It shall designate an official representative and shall in writing direct and authorize that person to file this application, including all understandings and assurances contained therein; to act in connection with this application; and to provide such additional information as may be required.

3. **Sponsor Fund Availability.** It has sufficient funds available for that portion of the project costs which are not to be paid by the United States. It has sufficient funds available to assure operation and maintenance of items funded under this grant agreement which it will own or control.

## 4. **Good Title.**

- a. It, a public agency or the Federal government, holds good title, satisfactory to the Secretary, to the landing area of the airport or site thereof, or will give assurance satisfactory to the Secretary that good title will be acquired.
- b. For noise compatibility program projects to be carried out on the property of the sponsor, it holds good title satisfactory to the Secretary to that portion of the property upon which Federal funds will be expended or will give assurance to the Secretary that good title will be obtained.

## 5. **Preserving Rights and Powers.**

- a. It will not take or permit any action which would operate to deprive it of any of the rights and powers necessary to perform any or all of the terms, conditions, and assurances in the grant agreement without the written approval of the Secretary, and will act promptly to acquire, extinguish or

modify any outstanding rights or claims of right of others which would interfere with such performance by the sponsor. This shall be done in a manner acceptable to the Secretary.

- b. It will not sell, lease, encumber, or otherwise transfer or dispose of any part of its title or other interests in the property shown on Exhibit A to this application or, for a noise compatibility program project, that portion of the property upon which Federal funds have been expended, for the duration of the terms, conditions, and assurances in this grant agreement without approval by the Secretary. If the transferee is found by the Secretary to be eligible under Title 49, United States Code, to assume the obligations of the grant agreement and to have the power, authority, and financial resources to carry out all such obligations, the sponsor shall insert in the contract or document transferring or disposing of the sponsor's interest, and make binding upon the transferee all of the terms, conditions, and assurances contained in this grant agreement.
- c. For all noise compatibility program projects which are to be carried out by another unit of local government or are on property owned by a unit of local government other than the sponsor, it will enter into an agreement with that government. Except as otherwise specified by the Secretary, that agreement shall obligate that government to the same terms, conditions, and assurances that would be applicable to it if it applied directly to the FAA for a grant to undertake the noise compatibility program project. That agreement and changes thereto must be satisfactory to the Secretary. It will take steps to enforce this agreement against the local government if there is substantial non-compliance with the terms of the agreement.
- d. For noise compatibility program projects to be carried out on privately owned property, it will enter into an agreement with the owner of that property which includes provisions specified by the Secretary. It will take steps to enforce this agreement against the property owner whenever there is substantial non-compliance with the terms of the agreement.
- e. If the sponsor is a private sponsor, it will take steps satisfactory to the Secretary to ensure that the airport will continue to function as a public-use airport in accordance with these assurances for the duration of these assurances.
- f. If an arrangement is made for management and operation of the airport by any agency or person other than the sponsor or an employee of the sponsor, the sponsor will reserve sufficient rights and authority to ensure that the airport will be operated and maintained in accordance with Title 49, United States Code, the regulations and the terms, conditions and assurances in the grant agreement and shall ensure that such arrangement also requires compliance therewith.
- g. It will not permit or enter into any arrangement that results in permission for the owner or tenant of a property used as a residence, or zoned for residential use, to taxi an aircraft between that property and any location on airport.

6. **Consistency with Local Plans.** The project is reasonably consistent with plans (existing at the time of submission of this application) of public agencies that are authorized by the State in which the project is located to plan for the development of the area surrounding the airport.
7. **Consideration of Local Interest.** It has given fair consideration to the interest of communities in or near where the project may be located.
8. **Consultation with Users.** In making a decision to undertake any airport development project under Title 49, United States Code, it has undertaken reasonable consultations with affected parties using the airport at which the project is proposed.
9. **Public Hearings.** In projects involving the location of an airport, an airport runway, or a major runway extension, it has afforded the opportunity for public hearings for the purpose of considering the economic, social, and environmental effects of the airport or runway location and its consistency with goals and objectives of such planning as has been carried out by the community and it shall, when requested by the Secretary, submit a copy of the transcript of such hearings to the Secretary. Further, for such projects, it has on its management board either voting representation from the communities where the project is located or has advised the communities that they have the right to petition the Secretary concerning a proposed project.
10. **Air and Water Quality Standards.** In projects involving airport location, a major runway extension, or runway location it will provide for the Governor of the state in which the project is located to certify in writing to the Secretary that the project will be located, designed, constructed, and operated so as to comply with applicable air and water quality standards. In any case where such standards have not been approved and where applicable air and water quality standards have been promulgated by the Administrator of the Environmental Protection Agency, certification shall be obtained from such Administrator. Notice of certification or refusal to certify shall be provided within sixty (60) days after the project application has been received by the Secretary.
11. **Pavement Preventive Maintenance.** With respect to a project approved after January 1, 1995, for the replacement or reconstruction of pavement at the airport, it assures or certifies that it has implemented an effective airport pavement maintenance-management program and it assures that it will use such program for the useful life of any pavement constructed, reconstructed or repaired with Federal financial assistance at the airport. It will provide such reports on pavement condition and pavement management programs as the Secretary determines may be useful.
12. **Terminal Development Prerequisites.** For projects which include terminal development at a public use airport, as defined in Title 49, it has, on the date of submittal of the project grant application, all the safety equipment required for certification of such airport under section 44706 of Title 49, United States Code, and all the security equipment required by rule or regulation, and has provided for

access to the passenger enplaning and deplaning area of such airport to passengers enplaning and deplaning from aircraft other than air carrier aircraft.

**13. Accounting System, Audit, and Record Keeping Requirements.**

- a. It shall keep all project accounts and records which fully disclose the amount and disposition by the recipient of the proceeds of the grant, the total cost of the project in connection with which the grant is given or used, and the amount or nature of that portion of the cost of the project supplied by other sources, and such other financial records pertinent to the project. The accounts and records shall be kept in accordance with an accounting system that will facilitate an effective audit in accordance with the Single Audit Act of 1984.
- b. It shall make available to the Secretary and the Comptroller General of the United States, or any of their duly authorized representatives, for the purpose of audit and examination, any books, documents, papers, and records of the recipient that are pertinent to the grant. The Secretary may require that an appropriate audit be conducted by a recipient. In any case in which an independent audit is made of the accounts of a sponsor relating to the disposition of the proceeds of a grant or relating to the project in connection with which the grant was given or used, it shall file a certified copy of such audit with the Comptroller General of the United States not later than six (6) months following the close of the fiscal year for which the audit was made.

**14. Minimum Wage Rates.** It shall include, in all contracts in excess of \$2,000 for work on any projects funded under the grant agreement which involve labor, provisions establishing minimum rates of wages, to be predetermined by the Secretary of Labor, in accordance with the Davis-Bacon Act, as amended (40 U.S.C. 276a-276a-5), which contractors shall pay to skilled and unskilled labor, and such minimum rates shall be stated in the invitation for bids and shall be included in proposals or bids for the work.

**15. Veteran's Preference.** It shall include in all contracts for work on any project funded under the grant agreement which involve labor, such provisions as are necessary to insure that, in the employment of labor (except in executive, administrative, and supervisory positions), preference shall be given to Veterans of the Vietnam era and disabled veterans as defined in Section 47112 of Title 49, United States Code. However, this preference shall apply only where the individuals are available and qualified to perform the work to which the employment relates.

**16. Conformity to Plans and Specifications.** It will execute the project subject to plans, specifications, and schedules approved by the Secretary. Such plans, specifications, and schedules shall be submitted to the Secretary prior to commencement of site preparation, construction, or other performance under this grant agreement, and, upon approval of the Secretary, shall be incorporated into this grant agreement. Any modification to the approved plans, specifications, and

schedules shall also be subject to approval of the Secretary, and incorporated into the grant agreement.

**17. Construction Inspection and Approval.** It will provide and maintain competent technical supervision at the construction site throughout the project to assure that the work conforms to the plans, specifications, and schedules approved by the Secretary for the project. It shall subject the construction work on any project contained in an approved project application to inspection and approval by the Secretary and such work shall be in accordance with regulations and procedures prescribed by the Secretary. Such regulations and procedures shall require such cost and progress reporting by the sponsor or sponsors of such project as the Secretary shall deem necessary.

**18. Planning Projects.** In carrying out planning projects:

- a. It will execute the project in accordance with the approved program narrative contained in the project application or with the modifications similarly approved.
- b. It will furnish the Secretary with such periodic reports as required pertaining to the planning project and planning work activities.
- c. It will include in all published material prepared in connection with the planning project a notice that the material was prepared under a grant provided by the United States.
- d. It will make such material available for examination by the public, and agrees that no material prepared with funds under this project shall be subject to copyright in the United States or any other country.
- e. It will give the Secretary unrestricted authority to publish, disclose, distribute, and otherwise use any of the material prepared in connection with this grant.
- f. It will grant the Secretary the right to disapprove the sponsor's employment of specific consultants and their subcontractors to do all or any part of this project as well as the right to disapprove the proposed scope and cost of professional services.
- g. It will grant the Secretary the right to disapprove the use of the sponsor's employees to do all or any part of the project.
- h. It understands and agrees that the Secretary's approval of this project grant or the Secretary's approval of any planning material developed as part of this grant does not constitute or imply any assurance or commitment on the part of the Secretary to approve any pending or future application for a Federal airport grant.

**19. Operation and Maintenance.**

- a. The airport and all facilities which are necessary to serve the aeronautical users of the airport, other than facilities owned or controlled by the United States, shall be operated at all times in a safe and serviceable condition and in accordance with the minimum standards as may be required or prescribed by applicable Federal, state and local agencies for maintenance and operation. It will not cause or permit any activity or action thereon

which would interfere with its use for airport purposes. It will suitably operate and maintain the airport and all facilities thereon or connected therewith, with due regard to climatic and flood conditions. Any proposal to temporarily close the airport for non-aeronautical purposes must first be approved by the Secretary. In furtherance of this assurance, the sponsor will have in effect arrangements for-

- (1) Operating the airport's aeronautical facilities whenever required;
- (2) Promptly marking and lighting hazards resulting from airport conditions, including temporary conditions; and
- (3) Promptly notifying airmen of any condition affecting aeronautical use of the airport. Nothing contained herein shall be construed to require that the airport be operated for aeronautical use during temporary periods when snow, flood or other climatic conditions interfere with such operation and maintenance. Further, nothing herein shall be construed as requiring the maintenance, repair, restoration, or replacement of any structure or facility which is substantially damaged or destroyed due to an act of God or other condition or circumstance beyond the control of the sponsor.

b. It will suitably operate and maintain noise compatibility program items that it owns or controls upon which Federal funds have been expended.

**20. Hazard Removal and Mitigation.** It will take appropriate action to assure that such terminal airspace as is required to protect instrument and visual operations to the airport (including established minimum flight altitudes) will be adequately cleared and protected by removing, lowering, relocating, marking, or lighting or otherwise mitigating existing airport hazards and by preventing the establishment or creation of future airport hazards.

**21. Compatible Land Use.** It will take appropriate action, to the extent reasonable, including the adoption of zoning laws, to restrict the use of land adjacent to or in the immediate vicinity of the airport to activities and purposes compatible with normal airport operations, including landing and takeoff of aircraft. In addition, if the project is for noise compatibility program implementation, it will not cause or permit any change in land use, within its jurisdiction, that will reduce its compatibility, with respect to the airport, of the noise compatibility program measures upon which Federal funds have been expended.

**22. Economic Nondiscrimination.**

- a. It will make the airport available as an airport for public use on reasonable terms and without unjust discrimination to all types, kinds and classes of aeronautical activities, including commercial aeronautical activities offering services to the public at the airport.
- b. In any agreement, contract, lease, or other arrangement under which a right or privilege at the airport is granted to any person, firm, or corporation to conduct or to engage in any aeronautical activity for furnishing services to the public at the airport, the sponsor will insert and enforce provisions requiring the contractor to-

- (1) furnish said services on a reasonable, and not unjustly discriminatory, basis to all users thereof, and
  - (2) charge reasonable, and not unjustly discriminatory, prices for each unit or service, provided that the contractor may be allowed to make reasonable and nondiscriminatory discounts, rebates, or other similar types of price reductions to volume purchasers.
- c. Each fixed-based operator at the airport shall be subject to the same rates, fees, rentals, and other charges as are uniformly applicable to all other fixed-based operators making the same or similar uses of such airport and utilizing the same or similar facilities.
  - d. Each air carrier using such airport shall have the right to service itself or to use any fixed-based operator that is authorized or permitted by the airport to serve any air carrier at such airport.
  - e. Each air carrier using such airport (whether as a tenant, non tenant, or subtenant of another air carrier tenant) shall be subject to such nondiscriminatory and substantially comparable rules, regulations, conditions, rates, fees, rentals, and other charges with respect to facilities directly and substantially related to providing air transportation as are applicable to all such air carriers which make similar use of such airport and utilize similar facilities, subject to reasonable classifications such as tenants or non tenants and signatory carriers and non signatory carriers. Classification or status as tenant or signatory shall not be unreasonably withheld by any airport provided an air carrier assumes obligations substantially similar to those already imposed on air carriers in such classification or status.
  - f. It will not exercise or grant any right or privilege which operates to prevent any person, firm, or corporation operating aircraft on the airport from performing any services on its own aircraft with its own employees [including, but not limited to maintenance, repair, and fueling] that it may choose to perform.
  - g. In the event the sponsor itself exercises any of the rights and privileges referred to in this assurance, the services involved will be provided on the same conditions as would apply to the furnishing of such services by commercial aeronautical service providers authorized by the sponsor under these provisions.
  - h. The sponsor may establish such reasonable, and not unjustly discriminatory, conditions to be met by all users of the airport as may be necessary for the safe and efficient operation of the airport.
  - i. The sponsor may prohibit or limit any given type, kind or class of aeronautical use of the airport if such action is necessary for the safe operation of the airport or necessary to serve the civil aviation needs of the public.

**23. Exclusive Rights.** It will permit no exclusive right for the use of the airport by any person providing, or intending to provide, aeronautical services to the public. For purposes of this paragraph, the providing of the services at an airport by a

single fixed-based operator shall not be construed as an exclusive right if both of the following apply:

- a. It would be unreasonably costly, burdensome, or impractical for more than one fixed-based operator to provide such services, and
- b. If allowing more than one fixed-based operator to provide such services would require the reduction of space leased pursuant to an existing agreement between such single fixed-based operator and such airport.

It further agrees that it will not, either directly or indirectly, grant or permit any person, firm, or corporation, the exclusive right at the airport to conduct any aeronautical activities, including, but not limited to charter flights, pilot training, aircraft rental and sightseeing, aerial photography, crop dusting, aerial advertising and surveying, air carrier operations, aircraft sales and services, sale of aviation petroleum products whether or not conducted in conjunction with other aeronautical activity, repair and maintenance of aircraft, sale of aircraft parts, and any other activities which because of their direct relationship to the operation of aircraft can be regarded as an aeronautical activity, and that it will terminate any exclusive right to conduct an aeronautical activity now existing at such an airport before the grant of any assistance under Title 49, United States Code.

**24. Fee and Rental Structure.** It will maintain a fee and rental structure for the facilities and services at the airport which will make the airport as self-sustaining as possible under the circumstances existing at the particular airport, taking into account such factors as the volume of traffic and economy of collection. No part of the Federal share of an airport development, airport planning or noise compatibility project for which a grant is made under Title 49, United States Code, the Airport and Airway Improvement Act of 1982, the Federal Airport Act or the Airport and Airway Development Act of 1970 shall be included in the rate basis in establishing fees, rates, and charges for users of that airport.

**25. Airport Revenues.**

- a. All revenues generated by the airport and any local taxes on aviation fuel established after December 30, 1987, will be expended by it for the capital or operating costs of the airport; the local airport system; or other local facilities which are owned or operated by the owner or operator of the airport and which are directly and substantially related to the actual air transportation of passengers or property; or for noise mitigation purposes on or off the airport. Provided, however, that if covenants or assurances in debt obligations issued before September 3, 1982, by the owner or operator of the airport, or provisions enacted before September 3, 1982, in governing statutes controlling the owner or operator's financing, provide for the use of the revenues from any of the airport owner or operator's facilities, including the airport, to support not only the airport but also the airport owner or operator's general debt obligations or other facilities, then this limitation on the use of all revenues generated by the airport (and, in the case of a public airport, local taxes on aviation fuel) shall not apply.
- b. As part of the annual audit required under the Single Audit Act of 1984, the sponsor will direct that the audit will review, and the resulting audit

report will provide an opinion concerning, the use of airport revenue and taxes in paragraph (a), and indicating whether funds paid or transferred to the owner or operator are paid or transferred in a manner consistent with Title 49, United States Code and any other applicable provision of law, including any regulation promulgated by the Secretary or Administrator.

- c. Any civil penalties or other sanctions will be imposed for violation of this assurance in accordance with the provisions of Section 47107 of Title 49, United States Code.

**26. Reports and Inspections.** It will:

- a. submit to the Secretary such annual or special financial and operations reports as the Secretary may reasonably request and make such reports available to the public; make available to the public at reasonable times and places a report of the airport budget in a format prescribed by the Secretary;
- b. for airport development projects, make the airport and all airport records and documents affecting the airport, including deeds, leases, operation and use agreements, regulations and other instruments, available for inspection by any duly authorized agent of the Secretary upon reasonable request;
- c. for noise compatibility program projects, make records and documents relating to the project and continued compliance with the terms, conditions, and assurances of the grant agreement including deeds, leases, agreements, regulations, and other instruments, available for inspection by any duly authorized agent of the Secretary upon reasonable request; and
- d. in a format and time prescribed by the Secretary, provide to the Secretary and make available to the public following each of its fiscal years, an annual report listing in detail:
  - 1) all amounts paid by the airport to any other unit of government and the purposes for which each such payment was made; and
  - 2) all services and property provided by the airport to other units of government and the amount of compensation received for provision of each such service and property.

**27. Use by Government Aircraft.** It will make available all of the facilities of the airport developed with Federal financial assistance and all those usable for landing and takeoff of aircraft to the United States for use by Government aircraft in common with other aircraft at all times without charge, except, if the use by Government aircraft is substantial, charge may be made for a reasonable share, proportional to such use, for the cost of operating and maintaining the facilities used. Unless otherwise determined by the Secretary, or otherwise agreed to by the sponsor and the using agency, substantial use of an airport by Government aircraft will be considered to exist when operations of such aircraft are in excess of those which, in the opinion of the Secretary, would unduly interfere with use of the landing areas by other authorized aircraft, or during any calendar month that –

- a. Five (5) or more Government aircraft are regularly based at the airport or on land adjacent thereto; or

- b. The total number of movements (counting each landing as a movement) of Government aircraft is 300 or more, or the gross accumulative weight of Government aircraft using the airport (the total movement of Government aircraft multiplied by gross weights of such aircraft) is in excess of five million pounds.

**28. Land for Federal Facilities.** It will furnish without cost to the Federal Government for use in connection with any air traffic control or air navigation activities, or weather-reporting and communication activities related to air traffic control, any areas of land or water, or estate therein, or rights in buildings of the sponsor as the Secretary considers necessary or desirable for construction, operation, and maintenance at Federal expense of space or facilities for such purposes. Such areas or any portion thereof will be made available as provided herein within four months after receipt of a written request from the Secretary.

**29. Airport Layout Plan.**

- a. It will keep up to date at all times an airport layout plan of the airport showing (1) boundaries of the airport and all proposed additions thereto, together with the boundaries of all offsite areas owned or controlled by the sponsor for airport purposes and proposed additions thereto; (2) the location and nature of all existing and proposed airport facilities and structures (such as runways, taxiways, aprons, terminal buildings, hangars and roads), including all proposed extensions and reductions of existing airport facilities; and (3) the location of all existing and proposed nonaviation areas and of all existing improvements thereon. Such airport layout plans and each amendment, revision, or modification thereof, shall be subject to the approval of the Secretary which approval shall be evidenced by the signature of a duly authorized representative of the Secretary on the face of the airport layout plan. The sponsor will not make or permit any changes or alterations in the airport or any of its facilities which are not in conformity with the airport layout plan as approved by the Secretary and which might, in the opinion of the Secretary, adversely affect the safety, utility or efficiency of the airport.
- b. If a change or alteration in the airport or the facilities is made which the Secretary determines adversely affects the safety, utility, or efficiency of any federally owned, leased, or funded property on or off the airport and which is not in conformity with the airport layout plan as approved by the Secretary, the owner or operator will, if requested, by the Secretary (1) eliminate such adverse effect in a manner approved by the Secretary; or (2) bear all costs of relocating such property (or replacement thereof) to a site acceptable to the Secretary and all costs of restoring such property (or replacement thereof) to the level of safety, utility, efficiency, and cost of operation existing before the unapproved change in the airport or its facilities.

**30. Civil Rights.** It will comply with such rules as are promulgated to assure that no person shall, on the grounds of race, creed, color, national origin, sex, age, or handicap be excluded from participating in any activity conducted with or

benefiting from funds received from this grant. This assurance obligates the sponsor for the period during which Federal financial assistance is extended to the program, except where Federal financial assistance is to provide, or is in the form of personal property or real property or interest therein or structures or improvements thereon in which case the assurance obligates the sponsor or any transferee for the longer of the following periods: (a) the period during which the property is used for a purpose for which Federal financial assistance is extended, or for another purpose involving the provision of similar services or benefits, or (b) the period during which the sponsor retains ownership or possession of the property.

**31. Disposal of Land.**

- a. For land purchased under a grant for airport noise compatibility purposes, it will dispose of the land, when the land is no longer needed for such purposes, at fair market value, at the earliest practicable time. That portion of the proceeds of such disposition which is proportionate to the United States' share of acquisition of such land will, at the discretion of the Secretary, (1) be paid to the Secretary for deposit in the Trust Fund, or (2) be reinvested in an approved noise compatibility project as prescribed by the Secretary, including the purchase of nonresidential buildings or property in the vicinity of residential buildings or property previously purchased by the airport as part of a noise compatibility program.
- b. For land purchased under a grant for airport development purposes (other than noise compatibility), it will, when the land is no longer needed for airport purposes, dispose of such land at fair market value or make available to the Secretary an amount equal to the United States' proportionate share of the fair market value of the land. That portion of the proceeds of such disposition which is proportionate to the United States' share of the cost of acquisition of such land will, (1) upon application to the Secretary, be reinvested in another eligible airport improvement project or projects approved by the Secretary at that airport or within the national airport system, or (2) be paid to the Secretary for deposit in the Trust Fund if no eligible project exists.
- c. Land shall be considered to be needed for airport purposes under this assurance if (1) it may be needed for aeronautical purposes (including runway protection zones) or serve as noise buffer land, and (2) the revenue from interim uses of such land contributes to the financial self-sufficiency of the airport. Further, land purchased with a grant received by an airport operator or owner before December 31, 1987, will be considered to be needed for airport purposes if the Secretary or Federal agency making such grant before December 31, 1987, was notified by the operator or owner of the uses of such land, did not object to such use, and the land continues to be used for that purpose, such use having commenced no later than December 15, 1989.
- d. Disposition of such land under (a) (b) or (c) will be subject to the retention or reservation of any interest or right therein necessary to ensure that such

land will only be used for purposes which are compatible with noise levels associated with operation of the airport.

32. **Engineering and Design Services.** It will award each contract, or sub-contract for program management, construction management, planning studies, feasibility studies, architectural services, preliminary engineering, design, engineering, surveying, mapping or related services with respect to the project in the same manner as a contract for architectural and engineering services is negotiated under Title IX of the Federal Property and Administrative Services Act of 1949 or an equivalent qualifications-based requirement **prescribed** for or by the sponsor of the airport.
33. **Foreign Market Restrictions.** It will not allow funds provided under this grant to be used to fund any project which uses any product or service of a foreign country during the period in which such foreign country is listed by the United States Trade Representative as denying fair and equitable market opportunities for products and suppliers of the United States in procurement and construction.
34. **Policies, Standards, and Specifications.** It will carry out the project in accordance with policies, standards, and specifications approved by the Secretary including but not limited to the advisory circulars listed in the Current FAA Advisory Circulars for AIP projects, dated \_\_\_\_\_ and included in this grant, and in accordance with applicable state policies, standards, and specifications approved by the Secretary.
35. **Relocation and Real Property Acquisition.** (1) It will be guided in acquiring real property, to the greatest extent practicable under State law, by the land acquisition policies in Subpart B of 49 CFR Part 24 and will pay or reimburse property owners for necessary expenses as specified in Subpart B. (2) It will provide a relocation assistance program offering the services described in Subpart C and fair and reasonable relocation payments and assistance to displaced persons as required in Subpart D and E of 49 CFR Part 24. (3) It will make available within a reasonable period of time prior to displacement, comparable replacement dwellings to displaced persons in accordance with Subpart E of 49 CFR Part 24.
36. **Access By Intercity Buses.** The airport owner or operator will permit, to the maximum extent practicable, intercity buses or other modes of transportation to have access to the airport; however, it has no obligation to fund special facilities for intercity buses or for other modes of transportation.
37. **Disadvantaged Business Enterprises.** The recipient shall not discriminate on the basis of race, color, national origin or sex in the award and performance of any DOT-assisted contract or in the administration of its DBE program or the requirements of 49 CFR Part 26. The Recipient shall take all necessary and reasonable steps under 49 CFR Part 26 to ensure non discrimination in the award and administration of DOT-assisted contracts. The recipient's DBE program, as required by 49 CFR Part 26, and as approved by DOT, is incorporated by reference in this agreement. Implementation of this program is a legal obligation and failure to carry out its terms shall be treated as a violation of this agreement. Upon notification to the Recipient of its failure to carry out its approved program,

the Department may impose sanctions as provided for under Part 26 and may, in appropriate cases, refer the matter for enforcement under 18 U.S.C. 1001 and/or the Program Fraud Civil Remedies Act of 1986 (31 U.S.C. 3801).

**38. Hangar Construction.** If the airport owner or operator and a person who owns an aircraft agree that a hangar is to be constructed at the airport for the aircraft at the aircraft owner's expense, the airport owner or operator will grant to the aircraft owner for the hangar a long term lease that is subject to such terms and conditions on the hangar as the airport owner or operator may impose.

**39. Competitive Access.**

- a. If the airport owner or operator of a medium or large hub airport (as defined in Section 47102 of Title 49, U.S.C.) has been unable to accommodate one or more requests by an air carrier for access to gates or other facilities at that airport in order to allow the air carrier to provide service to the airport or to expand service at the airport, the airport owner or operator shall transmit a report to the Secretary that-
  - (1) Describes the requests;
  - (2) Provides an explanation as to why the requests could not be accommodated; and
  - (3) Provides a time frame within which, if any, the airport will be able to accommodate the requests.
- b. Such report shall be due on either February 1 or August 1 of each year if the airport has been unable to accommodate the request(s) in the six (6) month period prior to the applicable due date.

**Exhibit 2**  
**CURRENT STATE GRANT ASSURANCES AND REQUIREMENTS**

THIS PAGE INTENTIONALLY LEFT BLANK

## Idaho Airport Aid Program (IAAP) Grant and Project Guidelines

Idaho Transportation Department

Division of Aeronautics

### Attachment D: Project Assurances

There are a number of assurances that are a standard part of all IAAP grants that must be complied with. Most of these requirements are effective for the life of the facilities developed (not to exceed 20 years from the date of grant acceptance).

The Airport Sponsor agrees to comply with the regulations relative to non-discrimination in State assisted programs of the Idaho Transportation Department.

The Sponsor shall:

Diligently and expeditiously complete this project and likewise pursue appropriate measures as may be agreed upon by the SPONSOR and AERONAUTICS to remedy project delays, including but not limited to litigation or condemnation.

Carry out and complete the project in accordance with the plans and specifications, as they may be revised or modified, with approval of AERONAUTICS.

All contracts for construction involved in this project shall be bid competitively in accordance with bidding procedures otherwise authorized for public entities.

In connection with the acquisition of real property for the project, the SPONSOR shall secure at least two written appraisals by licensed appraisers. The SPONSOR shall not pay in excess of the highest appraisal without the written consent of AERONAUTICS or except as directed by a court of competent jurisdiction after a contested trial and a judgment not resulting from agreement between the parties.

No State funds will be paid to the SPONSOR in any case until it certifies in writing that it has funds available and will spend at least the amount designed in **Table 3.1** above, solely for the project in question.

The SPONSOR agrees to hold said airport open to the flying public for the useful life of the facilities developed under this project.

The SPONSOR shall grant no exclusive use or operating agreements, to any person, company, or corporation; that failure to abide by such agreement shall automatically obligate the immediate and full return of all State of Idaho money expended in behalf of the project to the State of Idaho.

The allowable costs of the project shall not include any costs determined by AERONAUTICS to be ineligible.

SPONSOR shall report project commencement date.

SPONSOR shall make periodic progress reports as appropriate.

SPONSOR shall receive approval prior to any change in the scope of the project

SPONSOR shall report project completion date and request final inspection and payment.

Such allocation agreement shall become effective upon the SPONSOR acceptance of this offer and shall remain in full force and effect throughout the useful life of the facilities developed under the project but in any event not to exceed twenty (20) years from the date of acceptance.

SPONSOR must develop the airport in accordance with current Idaho Division of Aeronautics design and construction standards.

SPONSOR cannot allow any activity or action on the airport that would interfere with its use for airport purposes

SPONSOR must allow all types, kinds, and classes of aeronautical activities use the airport. This includes such activities as parachute jumping and ultralight vehicles. One possible reason for **not** allowing an aeronautical activity on the airport is if it cannot be conducted safely. The final safety determination is the responsibility of the Idaho division of Aeronautics.

SPONSOR must allow people to service their own aircraft according to all applicable Federal Aviation Regulations (FARs).

The Idaho Division of Aeronautics prefers that all revenue generated on the airport by the Sponsor be used for airport purposes only.

THIS PAGE INTENTIONALLY LEFT BLANK